

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 559 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SHRIJI KRUPA CORPORATION

Versus

CREATA FOOD MARKETING PVT LTD

Appearance:

MS SEJAL SUTARIA for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/1999

ORAL JUDGEMENT

1. The petitioner - defendant by this civil revision application under section 115 of the Civil Procedure Code, 1908 challenges the order of the Judge in Chamber Court No.14 dated 4-3-1993 under which in the summary suit filed by the plaintiff respondent conditional leave to defend has been granted to him on depositing a sum of Rs.30,000/-.

2. In this revision application, notice was issued

by this court on 28th April, 1993 and the order of the trial court was stayed on the condition that the petitioner shall deposit an amount of Rs.10,000/- in the City Civil Court at Ahmedabad on or before 7th June, 1993. Learned counsel for the petitioner stated that this amount has been deposited by the petitioner. On 10-12-1998, this revision application has been admitted.

3. One of the contentions raised by the learned counsel for the petitioner is that the court below has not passed a speaking order. The defendant has raised many contentious issues in the suit. Referring to those, it is contended that the suit is time barred. The Court has no jurisdiction to try the suit because the goods were supplied by the plaintiff - respondent at Patan and the payments were also made at Patan. The defendant petitioner was appointed as dealer for Patan area. So no transaction had taken place within the territorial jurisdiction of the Civil Civil Court, Ahmedabad. Further defence has been taken that there is a dispute regarding payment of the interest and at no point of time there is any agreement between the parties that the plaintiff - respondent is entitled for interest on the delayed payment. Ms.Sejal Sutaria, learned counsel for the petitioner contended that none of the defence raised by the petitioner has been considered and a cryptic order has been passed and conditional leave has been granted.

4. I find sufficient merits in this contention of the learned counsel for the petitioner. The court below has to give out the reasons for granting conditional leave in the matter which precisely has not been done and only on this ground, this revision application deserves to be allowed and accordingly it is allowed and both the orders below Ex. 24 and 25 dated 4-3-1993 passed in summary suit No. 3972 of 1992 are quashed and set aside. Learned trial court is directed to decide the matter afresh in accordance with law after hearing the learned counsel for the parties. As a result of the acceptance of this revision application, the petitioner will not be entitled to get back the amount of Rs.10,000/deposited by it in the trial court in pursuance of the order of this court. That amount shall remain under deposit with the trial court. If ultimately the court decides to grant leave to defend to the petitioner unconditionally at that point of time it may also pass the order for refund of this amount to the petitioner. Rule is made absolute accordingly.

zgs/-